

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ZILLOW, INC.,

Plaintiff,

VS.

TRULIA, INC.,

Defendant.

Case No. 2:12-cv-01549-JLR

**DEFENDANT TRULIA, INC.'S
ANSWER TO COMPLAINT FOR
PATENT INFRINGEMENT AND
COUNTERCLAIM**

DEMAND FOR JURY TRIAL

Defendant Trulia, Inc. (“Trulia”) hereby answers Plaintiffs Zillow, Inc.’s (“Zillow”) Complaint for Patent Infringement (“Complaint”) on personal knowledge as to its own activities and on information and belief as to the activities of others, as follows:

THE PARTIES

1. Trulia is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 and, therefore, denies them.

2. Trulia admits the allegations of paragraph 2.

JURISDICTION AND VENUE

3. Trulia admits the allegations of paragraph 3.

4. Trulia admits that this Court has subject matter jurisdiction over patent law claims under 28 U.S.C. §§ 1331 and 1338(a). Trulia denies the remaining allegations of paragraph 4.

1 5. Trulia does not contest personal jurisdiction in this district for the purpose of this
2 action. Trulia denies the remaining allegations of paragraph 5.

3 6. Trulia does not contest that venue is proper in the Western District of Washington
4 for the purpose of this action. Trulia denies the remaining allegations of paragraph 6.

5 **FACTUAL BACKGROUND**

6 7. Trulia is without knowledge or information sufficient to form a belief as to the
7 truth of the allegations of paragraph 7 and, therefore, denies them.

8 8. Trulia is without knowledge or information sufficient to form a belief as to the
9 truth of the allegations of paragraph 8 and, therefore, denies them.

10 9. Trulia admits that it runs a real estate information website at Trulia.com and
11 offers mobile real estate applications for smartphones and tablet computers. Trulia also admits
12 that on or around September 2011, it launched “Trulia Estimates” in beta in the San Francisco
13 Bay Area. Trulia denies the remaining allegations of paragraph 9.

14 10. Trulia admits that “Trulia Estimates” is one feature on its website. Trulia also
15 admits that certain of the quotes included in paragraph 10 of Zillow’s Complaint are accurate
16 quotes though out of context. Except as expressly admitted, Trulia denies the remaining
17 allegations of paragraph 10.

18 11. Trulia admits that certain of the quotes included in paragraph 11 of Zillow’s
19 Complaint are accurate quotes though out of context. Except as expressly admitted, Trulia
20 denies the remaining allegations of paragraph 11.

21 12. Trulia admits that certain of the quotes included in paragraph 12 of Zillow’s
22 Complaint are accurate quotes though out of context. Except as expressly admitted, Trulia
23 denies the remaining allegations of paragraph 12.

24 13. Trulia admits that certain of the quotes included in paragraph 13 of Zillow’s
25 Complaint are accurate quotes though out of context. Except as expressly admitted, Trulia
26 denies the remaining allegations of paragraph 13.

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14. Trulia admits that certain of the quotes included in paragraph 14 of Zillow's Complaint are accurate quotes though out of context. Except as expressly admitted, Trulia denies the remaining allegations of paragraph 14.

15. Trulia admits that it filed a Form S-1 Registration Statement with the Securities and Exchange Commission on August 17, 2012. Trulia admits that certain of the quotes included in paragraph 15 of Zillow's Complaint are accurate quotes though out of context. Trulia denies the remaining allegations of paragraph 15.

16. Trulia denies the allegations of paragraph 16.

**ANSWER TO COUNT ONE
INFRINGEMENT OF THE '674 PATENT**

17. Trulia admits that what appears to be a copy of U.S. Patent No. 7,970,674 B2 (“the ’674 patent”) was attached to the Complaint as Exhibit A and that, on its face, the ’674 patent is entitled “Automatically Determining A Current Value For A Real Estate Property, Such As A Home, That Is Tailored To Input From A Human User, Such As Its Owner” and issued on June 28, 2011. Trulia denies that the ’674 patent was duly and legally issued. Trulia is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 17 and, therefore, denies them.

18. Trulia is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18 and, therefore, denies them.

19. Trulia denies the allegations of paragraph 19.

20. Trulia denies the allegations of paragraph 20.

21. Trulia denies the allegations of paragraph 21.

RESPONSE TO JURY DEMAND

Zillow's demand for a trial by jury for all issues triable to a jury does not state any allegation, and Trulia is not required to respond.

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PRAYER FOR RELIEF

Trulia denies any and all allegations contained in the remainder of the Complaint and denies that Zillow is entitled to any of the relief requested in paragraphs (a) through (h) of its prayer for relief or to any other relief in any form whatsoever against Trulia. Trulia further denies each and every allegation contained in the Complaint to which it has not specifically responded.

AFFIRMATIVE DEFENSES

Subject to the above, Trulia alleges and asserts the following defenses in response to the allegations, undertaking the burden of proof only as to those defenses deemed affirmative defenses by law, regardless of how such defenses are denominated herein. In addition to the affirmative defenses described below, Trulia specifically reserves all rights to allege additional affirmative defenses that become known through the course of discovery.

FIRST AFFIRMATIVE DEFENSE

22. Zillow's Complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

23. Trulia has not infringed, directly or indirectly, literally or by equivalents, any valid claim of the '674 patent.

THIRD AFFIRMATIVE DEFENSE

24. The claims of the '674 patent are invalid for failure to comply with one or more of the requirements of 35 U.S.C. §§ 101, 102, 103, and/or 112.

FOURTH AFFIRMATIVE DEFENSE

25. The accused feature, Trulia Estimates, has been publicly available and widely known since its launch on or about September 7, 2011. Zillow delayed more than a year in filing this action against Trulia, and Trulia has been prejudiced by this delay. Indeed, days after Trulia commenced the “roadshow” for its initial public offering to begin marketing its stock to investors, Zillow filed the subject complaint against Trulia.

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26. Zillow's claims for relief against Trulia are barred, in whole or in part, by the equitable doctrines of laches, estoppel, and/or waiver.

FIFTH AFFIRMATIVE DEFENSE

27. By reason of proceedings in the United States Patent and Trademark Office, and by reasons of amendments, disclaimers, disavowals, admissions, representations, arguments, and/or statements made by the applicants or on their behalf, Zillow is estopped from construing the claims of the '674 patent to cover and/or include any acts of Trulia.

SIXTH AFFIRMATIVE DEFENSE

28. Trulia is informed and believes, and thereon alleges, that Zillow may not claim pre-lawsuit damages, in whole or in part, for failure to comply with 35 U.S.C. § 287.

SEVENTH AFFIRMATIVE DEFENSE

29. Zillow has failed to state facts and/or a legal basis sufficient to permit the Court to grant equitable or injunctive relief against Trulia.

EIGHT AFFIRMATIVE DEFENSE

30. Zillow's Complaint, and the cause of action asserted therein, is barred in whole or in part by the doctrine of unclean hands.

RESERVATION OF ADDITIONAL AFFIRMATIVE DEFENSES

31. Trulia reserves all defenses under the Federal Rules of Civil Procedure, the Patent Laws of the United States, and any other defenses, at law or in equity, that may now exist or in the future be available based on discovery and further factual investigation in this case.

COUNTERCLAIM

Defendant and Counterclaimant Trulia, Inc. (“Trulia”) hereby alleges for its counterclaim against Plaintiff and Counterdefendant Zillow, Inc. (“Zillow”), on personal knowledge as to its own activities and on information and belief as to the activities of others, as follows:

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THE PARTIES

1. Counterclaimant Trulia is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 116 Montgomery Street, #300, San Francisco, California 94105.

2. On information and belief, Counterdefendant Zillow is a corporation duly organized under the laws of the State of Washington with its principal place of business at 1301 Second Avenue, Floor 31, Seattle, Washington 98101.

JURISDICTION AND VENUE

3. The Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), as this action arises under the patent laws of the United States, and under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

4. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391, as this is a judicial district in which a substantial portion of the events giving rise to the causes of action occurred.

**COUNTERCLAIM FOR DECLARATORY RELIEF
REGARDING U.S. PATENT NO. 7,970,674 B2**

5. Trulia realleges and incorporates by reference each allegation contained in paragraphs 1-4 of this Counterclaim, inclusive, as if fully set forth herein.

6. On or about June 28, 2011, U.S. Patent No. 7,970,674 B2 (“the ’674 patent”) entitled “Automatically Determining A Current Value For A Real Estate Property, Such As A Home, That Is Tailored To Input From A Human User, Such As Its Owner,” issued to named inventor David Cheng. The United States Patent and Trademark Office website indicates that the ’674 patent was assigned to Zillow.

7. On or about September 12, 2012, Zillow filed its Complaint for Patent Infringement (“Complaint”) alleging infringement of the ’674 patent, naming Trulia as defendant.

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8. Trulia has not infringed, is not now infringing, has not contributorily infringed, and has not induced infringement, either directly or indirectly, literally or by equivalents, any valid claim of the '674 patent asserted in Zillow's Complaint.

9. The '674 patent is invalid because it fails to comply with one or more of the requirements of 35 U.S.C. §§ 101, 102, 103, and/or 112, for example, for the reasons set forth in Trulia's Motion to Dismiss Complaint for Patent Infringement. *See* Dkt. No. 19.

10. Zillow denies some or all of the allegations in paragraphs 8 and 9 of the Counterclaim above. A valid and justiciable controversy has therefore arisen and exists between Trulia and Zillow. Trulia desires a judicial determination and declaration of the parties' respective rights concerning the '674 patent. Such a determination is necessary and appropriate at this time in order for the parties to ascertain their respective rights and duties regarding the validity and alleged infringement of the '674 patent.

PRAAYER FOR RELIEF

WHEREFORE, Trulia requests that the Court enter judgment in its favor and against Zillow on both Zillow's Complaint and Trulia's Counterclaim as follows:

- (a) Dismissing Zillow's claims for patent infringement with prejudice and declaring that Zillow take nothing by way of its Complaint;
- (b) Declaring that Trulia has not infringed, contributed to the infringement of, or induced others to infringe, either directly or indirectly, literally or by equivalents, any valid claim of the '674 patent;
- (c) Declaring that the claims of the '674 patent are invalid;
- (d) Ordering that Zillow, its agents, and all persons acting in concert or participation with Zillow, be enjoined from charging infringement of or instituting any further action for infringement of the '674 patent against Trulia;
- (e) Awarding Trulia its costs incurred in this action, disbursements and attorneys' fees, to the extent permitted by law; and

(f) Granting such other and further relief as this Court may deem just and proper.

Dated: March 1, 2013

ATTORNEYS FOR DEFENDANT AND
COUNTERCLAIMANT TRULIA, INC.

By: _____ /s/ *Stefani E. Shanberg*
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CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification to counsel of record.

/s/ Stefani E. Shanberg
Stefani E. Shanberg